



POLICE DEPARTMENT

April 16, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Warren Rodney
Tax Registry No. 944942
77 Precinct
Disciplinary Case No. 2013-9397

The above-named member of the Department appeared before me on March 20, 2015, charged with the following:

1. Said Police Officer Warren Rodney, assigned to the 77 Precinct, while off-duty, on or about January 23, 2012, within the confines of the 75 Precinct, in Kings County, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department in that after being involved in an off-duty police incident, said Police Officer failed to promptly identify himself as a Member of the Service.

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
P.G. 212-33, Page 1 through 3 – CONFRONTATION SITUATIONS

2. Said Police Officer Warren Rodney, assigned to the 77 Precinct, while off duty, on or about January 23, 2012, failed to carry his Department issued shield while armed.

P.G. 204-15, Page 1, note – SHIELDS/NAMEPLATES/IDENTIFICATION
CARDS [sic]
P.G. 212-33, Page 4, note – CONFRONTATION SITUATIONS [sic]

The Department was represented by Jamie Moran, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Guilty to the subject charges

and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

The facts presented in this case are not in dispute and Respondent readily admits to his misconduct. On January 23, 2012, Respondent was off-duty when he was pulled over by two police officers from the 75 Precinct. Although he was not told the reason for the stop, Respondent seems to have been driving a vehicle with a missing license plate. When the officers approached his car, they asked Respondent for his license, registration, and insurance information, which he provided. In addition, Respondent handed the officers a Patrolmen's Benevolent Association ("PBA") card that had his shield number on it. Respondent, however, failed to identify himself as a police officer. (Tr. 9-12)

Respondent was carrying his service firearm and his Department identification card, but had left his shield in a safe at home. Respondent also had a box of .9 millimeter ammunition in the car which was leftover from a visit to the shooting range. The box of ammunition was visible to the officers when they approached his car and Respondent was asked to step out. (Tr. 12, 17) It was only after the police officers saw the ammunition and asked Respondent to step out of the car that he identified himself as a member of the service and produced his Department identification card. (Tr. 12) The police officers notified their patrol supervisor and Respondent returned to the 75 Precinct with them.

There, he was “spoken to” by a superior officer. (Tr. 24)

Approximately one to two minutes elapsed from the time Respondent was pulled over to the time he identified himself. Respondent explained that he intentionally failed to identify himself as a member of the service immediately after being pulled over because he wanted to ascertain how the officers would treat him upon seeing his PBA card. Respondent testified that there had been a prior “incident with [his] mom where [he] felt she was mistreated after displaying [his PBA] card...and [he] wanted to determine if it was her conduct or the conduct of the officers within the confines of that precinct.” (Tr. 13) Respondent admitted that, “it was pretty much a stupid test.” (Tr. 13)

PENALTY

In order to determine an appropriate penalty, Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 NY2d 222 (1974). Respondent was appointed to the Department on July 9, 2007. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. This tribunal notes that Respondent’s personnel record does not contain information that would mitigate the penalty in this case.

As Respondent has pled guilty to the charges in this case, the only question to be addressed here is whether the forfeiture of 15 vacation days is an appropriate penalty. Respondent’s attorney argued that Respondent is genuinely embarrassed and sorry for making a “poor judgment call” and has since learned how to properly conduct himself during a car stop. (Tr. 25) Respondent testified that as a result of this incident he has also “spoken to [his] family about how to conduct themselves correctly when in a car

stop.” (Tr. 14) Respondent’s attorney further argued that the suggested penalty is excessive considering that Respondent’s car stop was not actually the result of a traffic infraction or any summonsable offense, but rather the byproduct of a car stop occurring in front of him. Respondent’s attorney added that there was no harm caused as a result of this incident and no guns were drawn. (Tr. 28-29)

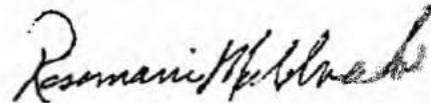
There are many factors to be considered in determining if a penalty should be mitigated. These include the nature and seriousness of the offense; the notice provided to the Respondent that the behavior was improper; the Respondent’s past work record which includes the length of service and past performance on the job; the consistency of the penalty imposed for similar misconduct; and Respondent’s demonstration of an understanding of the wrongfulness of his or her actions and ability to be rehabilitated.

In this case, while Respondent may have believed he was conducting a harmless experiment, the fact remains that his intentional failure to identify himself created a potentially dangerous situation. He was carrying a box of ammunition in a visible area of the car. Seeing the box of ammunition gave the police officers who stopped him reason to believe that Respondent was armed and potentially dangerous. By failing to immediately identify himself and by failing to carry his Department shield while armed, Respondent placed the police officers and himself at risk. Even if the car stop was not the result of a traffic infraction or other summonsable offense this would not negate Respondent’s failure to follow proper procedures during the stop. As an officer who works patrol and conducts car stops in the 77 Precinct, Respondent should have been particularly cognizant of the potential danger he created. In addition, Respondent caused the officers to be removed from their patrol duties in order to take him to the 75 Precinct

where an investigation ensued. Although it is important that Respondent learned his lesson, this subsequent recognition does not mitigate his failure to follow proper procedures on January 23, 2012 – particularly when he placed himself and fellow officers in a situation that could have easily devolved into a tragic misunderstanding.

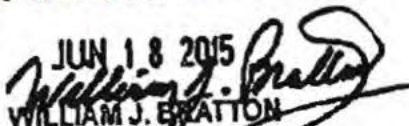
Accordingly, I find the forfeiture of 15 vacation days is the appropriate penalty in this case. See *Case No. 11044/13* (November 6, 2014) (15 vacation days was appropriate where a five-year police officer with no prior disciplinary record engaged in a verbal dispute with a security guard assigned to a condominium complex, failed to identify herself to the responding police officers, and neglected to report the incident) and *Case No. 74821/99* (April 13, 2000) (three-year police officer with no prior disciplinary history forfeited 20 vacation days for, while off-duty, failing to properly identify himself when police responded to his home).

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner Trials

APPROVED

JUN 18 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER Warren Rodney
TAX REGISTRY NO. 944942
DISCIPLINARY CASE NO. 2013-9397

Respondent was appointed to the Department on July 9, 2007. He received an overall rating of 3.0 on his 2013 and 2014 annual performance evaluations, and 2.5 on his 2012 annual evaluation. [REDACTED]
[REDACTED]
[REDACTED]

In 2013, he was placed on Level 2 Performance Monitoring, for having two below standard evaluations. He has no prior formal disciplinary record.

For your consideration.

Rosemarie Maldonado
Deputy Commissioner Trials